Previous references.

1905-06
(Courts)

File No. 17

Serial Nos. 166

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 166

Part B. for May 1906

SUBJECT.

Batta to Govt servants attending Courts as witnesses at the instance of private parties.

FILE No. 17 of 1905-06

Batta to Government servants attending Civil Courts as witnesses at the instance of private parties.

1	From the Comptroller to the Government of Mysore, No. 94—Spl. 1, dated the 5th July 1905. States that the Chief Commissioner's Notification No. 86 of the 27th May 1875, fixing a maximum charge of Rs. 2 does not seem to be correct; that he is of opinion that private parties must, as in Calcutta, be made to reimburse Government the day's pay of the officer summoned for each day of attendance, except when it is required absolutely, and requests that necessary orders may therefore be passed in the matter, in consultation with the Chief Court.
2	To the Registrar of the Chief Court of Mysore, No. J. 227, dated the 19th July 1905. Requests him to obtain and forward to this office the opinion of the Chief Court in the matter together with information as to the rule obtaining in Calcutta.
3	From the Registrar of the Chief Court of Mysore, No. 2079—91, dated the 30th September 1905. States that the Chief Court is not in favor of making any change in the existing practice and that the rule obtaining in Calcutta cannot be traced out.
4	To the First Assistant Resident in Mysore, No. Pol. 370, dated the 13th November 1905. Requests the favor of his ascertaining for the Durbar the rule in force in Bengal on the subject.
5	From the First Assistant to the Hon'ble the Resident, No. 2195, dated the 5th April 1906. Forwards a copy of letter from the Solicitor to the Government of India, intimating the rules in force in Calcutta in the matter.
6	To the Registrar, Chief Court, and the Comptroller, Mysore Government, No. J. 3224-5, dated the 17th May 1906. Concurs in the views expressed by the Chief Court and declines to sanction a change in the existing practice in the manner suggested by the Comptroller.

Chief Commissioner's Notification No. 86 of the 27th May 1875.

G. R. S. 117 1905.

GENERAL AND REVENUE SECRETARIAT.

(Comb.)

NOTES.

File No. 17

FILE HEADING.

Batta to Government servants attending Civil Courts as witness at the instance of private parties

From The Comptroller to Govt

No. 5A/8pl/1 Dated 5-7-05 Received 10/7/05

Diary No. 7 86 | Enclos. — | Spare Copies. — | Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that the Chief Commr's notice No. 86 of the 29th May 1895 fixing a maximum of R 2/- does not seem to him to be correct & requests that for reasons stated above may be passed, as in Calcutta, & in connection with the Chief Ct requiring private parties to deposit in Court the days' pay for each day of attendance of the officer summoned. Summoning a Govt officer, civil witness

NOTES AND ORDERS.

No 11

Under para 4 of the rule of practice as prevailing in Calcutta does not accompany. May the Comptr be asked for it & the Chief Commr's opinion also noted. Submit with draft for approval & for other orders.

10/7/05

2) The Comptroller has this memo he is

10/7/05

NOTES—First sheet[illegible]

MGCPB—25,000—18-8-04

G.R.S. 12]
General and Revenue Secretariat.

File No. 15 of 1905

Serial No.

merely referring to the Calcutta practice, & cannot quote the Rule.

3) The letter of the Registrar of the Chief Court may come. Mr Justice Clarke being a Bengal man probably knows what the ~~practice~~ rule there is.

4) On the merits of the question raised I shall have something to say after the opinion of the Chief Courts is received.

Secs 19/7/05

Leech 15-7-05

5) Passed 17.7.1905

2 Do the Registrar of the Chief Ct. of Mysore Nr. Secs dt 15/7/05

Requests him to obtain & forward to this office the opinion of the Chief Ct in the matter together with information as to the rule obtaining in Calcutta.

3 From The Registrar of the Chief Court of Mysore.

Letter no: 2079/91, dated 30.9.05.

States that the Chief Court is not in favour of making any change in the existing practice for reasons stated therein and that the rule obtaining in Calcutta cannot be traced out.

4) Submit for orders.

Nil 4/10/05

NOTE.—Contd. sheet.

MGCPB—50,000—17-2-05

[R.S. 12]
General and Revenue Secretariat.

File No. 17 of 1905

Serial No.

7) Read the correspondence & say that the Govt quite concur in the view expressed by the Chief Court and are not prepared to sanction a change in the existing practice. Section 160 of the Civil Procedure Code only requires payment to the person summoned of such sum as may be sufficient to defray his travelling and other expenses in proceeding to and from the Court and for one day's attendance - and does not contemplate the reimbursement to [illegible] of the loss of the services of his employé during the period of his absence. The precise valuation of the services temporarily lost is also not a practicable task, even if it were desirable on principle to require such re-imbursement.

4-10-05

8) Draft Sd

6/10/05

9) Draft submitted to the Hon'ble Sahibzada Aftab Ahmad Khan, Esq., C.I.E., Member in charge of the Home Department.

5-10-1905

10) Absence on leave cannot be treated as a witness is not absence from duty.

552
15-10-05
Imp

NOTE.—Contn. sheet.

MGCPB—50,000—17-2-05

G.R.S. 12]
General and Revenue Secretariat.

File No. 17 of 1905

Seria No.

See rules of Compilation Letter No.

No Law of any kind, but only a formal description of the Office is required in such cases. "Travelling or other allowances" do not include the pay or other emoluments of a person whether he is in Govt or Private Service - If Govt can claim the main pay, why not also a Private Employer or the person himself? For exceptional cases of loss by a professional man, there is provision in the Chief Court's Notification - Nothing further is called for. The Bengal practice is rightly disposed of & further investigation is deemed desirable, I would ~~obtain~~ obtain for, & obtain a copy of the Rules in force in Bengal, Madras & Bombay. My own opinion is that this is not quite necessary. Article 596 (c) seems to show that the pay of the Public Servant concerned is only affected to the extent of any subsistence allowance

NOTE—Contn. sheet.

MGCPB—50,000—17-2-05

G.R.S. 12]
General and Revenue Secretariat.

File No. 17 of 1905/1906

Serial No.

or compensation paid to him by the Court apart from any allowance for travelling expenses for them & the reasons given by the Chief Court & the Dy Secy, I agree to the Comptroller's suggestion being sanctioned. BL.

6/10/05.

6.10.1905

9086
6.10.05

11) Asks the Resident to kindly ascertain the practice in Bengal and furnish the Darbar with information on the subject. I see no wrong in principle to adopt the suggestion if there is a similar practice elsewhere.

28.X.05

12) Draft accd

2.11.1905

13) Draft

8/11/05 S/11/05

Register

Dy Secy 9-11-05

14) Passed

10/11/1905

Note.—Contn. sheet.

MGCPB—50,000—17-2 05

G.R.S. 12]
General and Revenue Secretariat.

A File No. 7 of 1905

Serial No.	
4	To the Govt of Bengal No 1041 J dt the 7th Mar 05 Requests the favor of his ascertaining for the Durbar the rule in force in Bengal in the matter of payment of batta to Govt servants attending civil courts as witnesses at the instance of private parties.
5.	From the same, No 2195, dt 5.4.06. Forwards copy of a letter, No 387 dt the 5th March from the Solicitor to the Govt of Bengal, regarding "rules in force" in Calcutta on the subject of paying batta to Govt servants attending Court at the instance of private parties. Submitted. The information was called for as per Dewan Sahib's order. by Secretary 19-4-06 (6) Please see my note of the 4th Oct 05 and Chary the late 1st Counsellor dt 6-10-05, in which the Question was fully discussed. The Chief Court have also expressed themselves as decidedly averse to changing the existing practice. The draft order then put up is symbd. To Secretary 1st Cr 21.4.06 (7) A brief order saying that the Govt consider it inexpedient to alter the existing rules in the way suggested Seems

122/23-Hole
Remark 11 Mg
2.5.1906

NOTE.—Contn. sheet.

MGCPB—50,000—17-2-05

G.R.S. 12]
General and Revenue Secretariat.

No. 17 File No. 16 of 1905

Serial No.

deems sufficient. [I am unable to find any authority for the proposition that absence of an officer to attend a Civil Court in a case in which Govt is not a party is not absence from duty. If absence were for a few days it would not matter. But if we had a Tichborne case here or a Gundi Krishnama Chari's case in which a public servant had to attend Court several times and for days together absence time it would be a serious matter.] 2 Aug 06

Recd on B 17-5-06

18) Draft submitted for orders 6-5-1906

19) Approved by the Dewan.

20) To the Registrar, Chief Court & Comptroller. No: J 3224-5 d: 17-5-06.

6 — Concurs in the view expressed by the Chief Court and declines to sanction a change in the existing practice in the manner suggested by the Comptroller.

NOTE—Contn. sheet

GPB—50,000—23 10-05

Govt. III 2nd C 19.7.05

C. File 17-05-1

Record DEPARTMENT. 86

1905.

From Rai N.G. Basu Bahadur B.A.
~~The~~ Comptroller, Mysore Govt.

To B.K. Venkatnarasa Iyengar Esq.
~~The~~ Secretary to the Govt. of Mysore,
General & Revenue Dept.

Dated 5/8 July
Despatched
Received

No. 94
Spl No. 1

SUBJECT MATTER.

Requesting to be furnished with orders of Govt. regarding the liability of private parties summoning a Govt. Officer as witness in a Civil suit to deposit in Court the pay of the officer summoned for the day on which the officer attends Court to give evidence in his private capacity.

Court file 17-05
Serial No 1

1 J86.

Record. DEPARTMENT.

No. 94-
Gl 1

OFFICE OF THE COMPTROLLER, MYSORE GOVT

Bangalore, 5 July *190* 5.

From Rai. N.G. Basu Bahadur, M.A.,
Comptroller, Mysore Govt

To

B.K. Venkatavarada Iyengar, Esq.,
Secretary to the Government of Mysore,
General and Revenue Departments.

SIR,

I have the honour to request that I may be furnished with orders of Government regarding the liability of private parties summoning a Government officer as witness in a civil suit to deposit in Court the pay of the officer summoned for the day on which the officer attends Court to give evidence in his private capacity.

2. In Calcutta, whenever a Government clerk is summoned to give such evidence, it is the practice of the Head of the office concerned to inform the Court of the pay or salary of the officer summoned and the day's salary is recovered and deposited in Court and credited as revenue of the Court. The Head of the office passes pay to the clerk for the day on production of a certificate from the Court that the pay has been recovered and credited to Government.

3. In a recent case, two of my Assistants -one a Gazetted officer and the other an Examiner - were summoned to give evidence in private suits in the court of the Principal Munsiff, Bangalore, and following the Calcutta practice, I asked the Munsiff to recover one day's salary of the officers summoned to give evidence.

4. The Principal Munsiff, in reply, has drawn my attention to

the Chief ~~Court's~~ Notification No. 86 of the 27th May 1875 and says that under that Notification Rs. 2/- is the maximum batta that can be recovered.

5. This Notification is headed "Travelling allowances" and I do not accept the view that Rs. 2/- is the maximum charge that should be recovered on behalf of a Government officer under the Notification; but ~~this~~ is a point on which the law officers of Government are competent to express an opinion. I may however point out that the language of the Civil Procedure Code is practically the same in British India and in Mysore and it is not clear that the word "batta covers compensation to Government officers for loss of pay for the day.

6. As far as I am concerned there are really two questions involved in the case. The first is whether the Head of an office is authorized to grant leave to his Assistants summoned to give evidence ~~ee~~ in their private capacity in law suits in which Government is not a party.

7. On this question there can be no two opinions. A Government officer is bound to obey the orders of a Court of Law.

8. The second question is what kind of leave it should be. It is on this question that the real difference arises. According to the practice in Bengal as known to me, the Head of an officer is not bound to pay its officer for a day for which his services are lost to Government and are really at the disposal of a private person, and accordingly the Government should be reimbursed the day's pay.

9. Apart from the fact that Government is entitled to be reimbursed on business principles, I may explain that an order that such reimbursement should be required will act as a deterrent against summonses to Government officers in private suits except when their attendance is absolutely necessary . It is well known that on many occasions large numbers of witnesses are called with the object of producing an impression only.

4

G.R.S. 26

2 Copies

File No. 17
Serial No. 2

Diary No. of letter replied to

No. J 227 dt 19/7/05
Courts 17-2 19/7/05

General and Revenue Secretariat
(Courts.)
, the 19/7/ 1905

To

The Registrar of the Chief Court of Mysore

Date of issue 19/7/05

Signed by M.C.K.S. Chandra Sekhara Aiya

Sir

I am directed to forward herewith copy of letter No. 54/8981 dated the 5th July 1905 from the Comptroller ~~to Government~~ regarding the payment of batta to Govt. Servants attending civil Courts as witnesses at the instance of private parties and to request that the favour may be favoured with the opinion of the Chief Court in the matter. ~~may be obtained and forwarded to the Hon'ble~~ ~~Court~~ Information as to the rule obtaining in Calcutta may also be furnished.

I have &c

19/7/05
Secretary.

SW 15/7/05

19/7/05

SUBJECT

over.

No. 2079
" 91

1807

Bangalore 30th September 1905.
Judl no: 17
S. no: 3

From,

The Registrar of the
Chief Court of Mysore

To,

The Secretary to the
Government of Mysore
General and Rev. Depts.

iii
Remd
3-10-05
(Courts)

Sir,

With reference to your letter No. J. 227/C14.2 dated 19th July 1905 calling for the opinion of the Chief Court in the matter of payment of batta to Government Servants attending Civil Courts as witnesses at the instance of private parties, I am directed to state that the Chief Court is not in favor of making any change in the existing practice.

It is the duty of every citizen

to

to lend his assistance in the proper administration of justice and when the Code requires private persons to come forward as witnesses sometimes at considerable pecuniary and other sacrifice merely on the payment of batta, it seems unreasonable and inexpedient that the Government should be so exacting as to insist on being reimbursed for loss of service of its subordinates when compelled to attend a Court of Law as witnesses.

I am to add that the rule referred to in the latter part of

the

the letter under reply cannot be traced

I have the honor to be

Sir,

Your most obedient Servant,

Rear Admiral

Registrar.

Lucy

G.R.S. 26]

File No. 17
Serial No. 4.

Diary No. of letter replied to

Pol No. 370

General and Revenue Secretariat.

(

, *the* 190

To The F A Resident in Mysore

Sir,

Date of issue 13.11.05

Signed by Vth Venkatasubbaya

I am directed to let
that the Comptroller to the
Government ~~is drawing the~~
~~drawing~~ has urged ~~upon them~~ the
desirability of passing a rule
~~as to Calcutta~~, requiring private
parties summoning Government
servants as witnesses in
civil ~~court~~ cases to deposit in Court
the days pay of the officers
summoned for each day of
attendance. ~~and is unable to~~
~~quote the rule~~ I am therefore
to request the favor of your
ascertaining for the Durbar

over.

(He adds that there is such a practice in Calcutta, though he is unable to quote the Rule on the subject.

SUBJECT.

9

rule in force

the ~~practice prevailing~~ in

in this matter of the payment of bustee Dfs't. servants attending civil courts as witnesses at the instance of private parties,

Bengal ~~and~~ and ~~Bombay~~

A

~~fit~~ title the same for information

~~them with any further claim in~~

~~the subject.~~

I have te

10/11/1905

Secretary

9/11/05

NQ SN
8/11/05

mnl
9-11-05

List of enclosures

ml

Copied by 11/11/05.

Examined by SN
11/11/05

MGCPB—30,000—16-2-05

10

File No 17
Sl: No. 5

J 2553

No. 2195 Exec. 4

From

R. C. H. MOSS KING, Esq., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

Pol no. 1683 dy 6.4.06

To

The Dewan of Mysore.

Dated Bangalore, 5th April 1906

Sir,

With reference to Mr. Venkatavaradaiengar's letter No. Pol 370 dated the 30th November 1905, I am directed to forward the accompanying copy of a letter No. 337 dated the 5th March 1906 from the solicitor to the Government of India to the address of the Secretary to the Government of Bengal Judicial Department regarding the rules in force in Calcutta in the matter of the payment of batta to Government servants attending Courts, together with copies of the Bengal Government notifications mentioned in paragraph 4 of the solicitor's letter.

I have the honour to be,

Sir,

Your most obedient servant,

First Assistant Resident.

No: 337.

From

C. H. Kesteven, Esq.,

Offg: Solicitor to the Government of India,

To R. L. Ross, Esq., I.C.S.,

Under Secretary to the Government of Bengal,

Judicial Department,

Judicial Branch.

Dated Calcutta, the 5th March 1906.

Sir,

I have the honour to refer to your letter No: 4566-J, dated the 16th December 1905 regarding the payment of travelling and other expenses to Government Servants called as witnesses in suits on the Civil side of the High Court and in the Small Cause Court, Calcutta, my reply to which has been deferred pending full enquiry and investigation into the matter.

2. It ~~would~~ should first be mentioned that under Sec. 176 of the Code of Civil Procedure 1882 which applies both to the High Court and the Small cause Court, no one is bound to attend in person to give evidence or to be examined in Court unless he resides within the local limits of the ordinary original jurisdiction of the Court or without such limits and at a place less than 50 or (where --- there is railway communication for five sixths of the distance - between the place where he resides and the place where the Court is suitable) two hundred miles distance from the Court House. A person residing beyond the limits so prescribed therefore not ~~be~~ being bound to attend the Court personally to give evidence, is in a position either to refuse to do so (~~in~~ which case he must be examined on commission) or to make his own terms as to expenses etc. for attending. Such a person therefore is not dependent on the rules of the Courts for payment of his expenses but if he voluntarily comes within the jurisdiction of the Court where his attendance is required or within the limits of distance from it prescribed by the Code and is there served with a summons to attend and become subject to such rules as if he resided at the place where he is served. ~~may be bound to attend~~

3. By the Rules of the High Court applicable to Civil suits a scale, graduated according to the station, profession or employ-

~~ment~~ -ment

employment of the witness, of the fees or allowances payable to witnesses summoned to give evidence in that Court is laid down and it is in the Rules provided that witnesses residing out of - Calcutta will be allowed travelling expenses according to the sums reasonably and actually paid and will also if detained in Calcutta be allowed such a sum for subsistence money and carriage hire as - the taxing officer having regard to the daily allowance fixed by the scale shall consider reasonable. The practice is that the - first day's expenses in accordance with this rule is prepaid to the witness by the party serving him and that if not prepaid or secured to the satisfaction of the Court the witness is not com--pelled to give his evidence. And in the rules of the Small Cause Court a fixed scale, graduated in the manner mentioned above, of the allowance for expenses to be allowed to witnesses is laid - down; and there is a similar provision to that referred to above as the payment of such expenses, with ~~which~~ a further provision that not less than the minimum allowed by the scale is to be tendered to the witness when served and that the Court shall at the hearing - decide any question as to the amount tendered.

4. There are no rules nor, except as mentioned below, any practice in either the High Court (on the Civil side) or in the Small Cause Court under which any sum for the expenses or pay of persons whether Government Servants or not summoned as witnesses is deposited beforehand i.e. when the Summons is issued. There is a provision of the Civil Procedure Code (Sec. 160) that the party applying for a Summons for the attendance of a witness shall -- before the Summons is granted and within a period fixed by the - Court pay into Court such a sum as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court but this provision is declared by the Code to be in-applicable to any of the Chartered High Courts. And though this provision so far as it provides for the payment of expenses is, by the combined operation of sec. 23 of the Presidency Small Cause Courts Act 1882 and Bengal Government Notifications of 14th June 1882, and 21st March 1883, made applicable to the Calcutta ~~Sm~~ Small Cause Court the portion relating to payment into Court has not been made so applicable. In the case of Government servants summoned from a distance to give evidence in the Small Cause --

Court

Court, however, it is the practice to require the parties summon--ing them to pay into Court an amount equal to their pay for one day. Such practice would seem to have originated in consequence of Bengal Government Notification No: 11-J-D, dated 18th Oct: 1882 This notification however appears to derive legal effect from the Proviso to Sec. 160 above referred to, that if the Court be subor--dinate to a High Court regard shall be had in fixing the scale of expenses to the rule laid down by competent authority and it would seem therefore that its provisions can only be legally enforced in Courts to which sec. 160 of the Code of Civil Procedure applies in its entirety and that there is no legal sanction for this ~~p~~-- practice of the Small Cause Court.

5. The proper course for a witness legally summoned to -- give evidence in the Calcutta High Court or Small Cause Court ~~xxx~~ is to obey the Summons if his expenses are not, as they should - be, tendered to him when served and to make a demand, if necessary, to the Court, before giving his evidence for payment of his pro--per expenses and allowance, the amount of which will in the event of dispute be settled and directed to be paid by the Court. In the unlikely case of a person summoned from a distance unable or -- objecting to pay out of his own pocket any sum necessary to enable him to travel to the Court and the necessary sum not being pro--vided by the party at whose instance he was served the person summoned might and in the case of inability no doubt would, be ~~h~~ held justified in refusing to attend.

I have &c.,

Sd/- C. H. Kesteven,

Offg: Solicitor to the Government of India.

(1) Notification. 14

Chapters and Sections of the Code of Civil Procedure extended, ~~or~~ omitted or applied with modifications to the Court of Small Causes of Calcutta, with the sanction of the Local Government, under section 23 of Act XV of 1882 "The Presidency Small Cause Courts Act, 1882."—

Chapters and Sections	Whether extended or Omitted.	Modifications if any.
Preliminary,		
Section 2	Extended	For the last portion of the interpretation of "decree," commencing after the words "decides the suit" read— "an order rejecting a plaint or determining any question mentioned or referred to in Sec: 244 is within this definition." And omit the interpretation of "judgment."
Chapter I.	Ditto	Except Explanation IV of Section 13.
Chapter II.		
Section 20	Ditto	
" 21.	Omitted	Except the last two Paragraphs.
Chapter III		
Sections 26, 27, 28, 29 30 and 31	Extended.	
Section 32	Ditto	Omitting the words "on or before the first hearing" in the first paragraph, and the words "in manner hereinafter mentioned" in the fifth paragraph.
" 33	Ditto.	The words "if the Court shall so order" being added at the end of the section.
" 34	Ditto	Omitting the words "and in all cases before the first hearing".
" 35	Ditto	Except the last paragraph.
" 36	Ditto	Except the words "or appeal"
" 37	Ditto.	
" 38	Ditto	Except the words "or appeal"
Section 39 and 40	Omitted.	
Section 41	Extended.	
Chapter IV.		
Section 43	Ditto	
" 44, rule 3	Ditto	
"		

Chapter and Sections.	Whether extended or omitted.	Modifications, if any.
Sections 45 to 44	Extended	But after the figures "44" add the words "as extended to the Court of Small Causes of Calcutta."
" 46	Ditto.	
" 47	Ditto	Except the last paragraph.
Chapter V.		
Sections 48 & 49.	Ditto	
" 50	Ditto	Except the 3rd paragraph.
" 51	Ditto	Omitting in the first paragraph the words "proved to the satisfaction of the Court to be."
" 52	Ditto.	
~~Section~~ 53	Extended	In the first paragraph omit the words "and at or before the first hearing" and the words "returned for amendment within a time to be fixed by the Court" and the words "then and there."
" 54	Ditto	In clause (b) for the word "Stamp paper" read the word "Stamp," and omit clause (d).
" 56	Ditto.	
Sections 57, 59 and 60	Omitted.	
Section 61	Extended	Omitting the words "when the plaint was presented and had at the same time delivered a copy of the instrument to be filed with the plaint."
" 63	Omitted.	
Chapter VI		
Section 64	Extended	For the word "Registered" read the word "filed."
" 67	Ditto.	Omit the last paragraph.
" 68	Omitted.	
Sections 69, 70, 71 and 72	Extended.	
Section 73	Ditto.	For the words "a copy thereof" read the word "it."
Sections 74, 75, 76, and 77	Ditto.	
" 78, 79, 80, and 81	Omitted.	
Section 82	Extended.	Except the first seven words, and the figures "80."
Sections 83, 84, 85, 87 88, 89, 90, 91, and 92	Ditto.	
Section ~~93~~.	Ditto.	
" 94.	Ditto.	Except the 2nd paragraph.
" 95	Ditto.	Omitting the words "hereinafter."

Chapters and Sections.	whether extended or omitted.	Modifications if any.
Chapter VII		
Section 96	Extended	Before the word "pleaders" insert the words "agents or
Section 97	Ditto.	
" 98	Ditto.	Omitting the words for reasons to be recorded in writing by his hand".
" 99	Ditto.	
" 99.a.	Omitted.	
" 101.	Extended	Except in clause (b) for the word "shall" read the word "may"
Sections 101, 102, 103, 104, 105 & 106.	Ditto.	
Section 107.	Ditto.	Omitting the figures and the words "66 or section."
Sections 108 & 109	Ditto.	
Chapter VIII		
Section 111.	Ditto.	Omitting the words "at the first hearing of the suit, but not afterwards unless permitted by the Court."
Sections 114 & 115	Ditto.	
Section 116	Ditto.	Except the 2nd paragraph.
Chapter IX		
Section 117.	Extended	Except the first seven and the last eight words
" 118.	Ditto	Except the first twelve words.
" 120.	Ditto.	
Chapter X		
Section 137.	Extended.	
" 138	Ditto.	Omitting the word "first" and the words "at any time before such hearing."
" 140.	Ditto.	Omitting the word "first".
" 141.	Ditto.	Omitting the word "first" in the last paragraph.
" 142.	Omitted.	
" 143.	Extended	Omitting the words and figures "notwithstanding anything contained in Sections 62, 141 & 142."
" 145.	Ditto.	
Chapter XI		
Section 150	Ditto.	Except clause (c).
" 151	Ditto.	

Chapters and Sections.	Whether extended or Omitted.	Modifications if any.
Chapter XII		
In the title		Omit the words "at the first hearing."
Section 152	Extended	Omitting the words "at the first hearing of the suit."
" 153.	Ditto	
Chapter XIII		
Section 156	Ditto	Except the last paragraph.
Sections 157, 158.	Ditto.	
Chapter XIV		
Section 159	Ditto	Omitting the words "whether it be for the settlement of the issues only or for the final disposal of the suit," and the words "before the day fixed for such settlement or disposal, as the case may be."
Sections 160	Ditto	For the words "before the summons is granted and within a period to be fixed by the Court — pay into the Court" read the word "pay".
" 161	Ditto	Except the words "so paid into court."
" 162	Ditto	Except in the first paragraph, omit the words "or to such officer as it appoints in this behalf." and the words "into court." And except in the second paragraph, the words "into court" and for the word "deposit" read the word "payment."
Sections 163, 164, 165, 166, 167 171 and 172 ...	Ditto	
Section 173.	Ditto	Except for the words "shall depart" read the word "shall cease to attend while bound so to do."
" 174	Ditto	Except for the word "departs" read the words "cease to attend."
Sections, 176, 177, and 178	Ditto.	
Chapter XV		
Section 179	Ditto.	
" 180	Ditto.	Except the last paragraph.
" 181	Ditto.	
" 192	Ditto	Except the last four words of the first para.
" 193	Ditto.	

Chapters and Sections.	Whether extended or Omitted.	Modifications if any.
Chapter XVI		
Section 194	Extended.	
Sections 195 & 196	Ditto.	
Section 197	Ditto.	
Chapter XVII		
Sections 198 & 199	Ditto.	
" 203 & 205	Omitted.	
Section 206	Extended.	But only the following portion of the 3rd paragraph: "If any clerical or arithmetical error be found in the decree, the court shall, of its own motion or on that of any of the parties, amend the decree ... provided that reasonable notice has been given to the parties or their pleaders of the proposed amendment." The rest of the section being omitted.
Sections 208 and 209	Ditto.	
Section 210	Ditto.	Except the last two paras.
" 215a	Omitted.	
" 216	Extended.	
" 217	Ditto.	For the word "judgment" substitute the word "proceedings."
Chapter XVIII		
Sections 218 & 219	Ditto.	
Section 220	Ditto.	Except the second paragraph.
" 221	Ditto.	
" 222	Omitted.	
Chapter XIX		
Section 230	Extended.	
" 231	Ditto.	
Sections 232		
233 and 234	Ditto.	
Sections 235 & 236	Omitted.	
Sections 243	Extended.	
" 244	Ditto.	Except clauses (a), ~~and~~ (b), and the words "any other" in clause (c); and the last paragraph.
" 245	Omitted.	
Sections 246 247, 248, 249, 250		
251 and 252	Extended.	
Section 253	Omitted.	
" 254	Extended.	
" 255	Omitted.	

Chapters and Sections	whether extended or Omitted.	Modifications if any.
Sections 256, 257		
257a and 258 ...	Extended	
Section 259	Ditto ...	Except the words "or ~~if~~ to any share in a specific moveable, or for the recovery of a wife," and the words "or share".
Sections 266, 267		
268, 269, 270, 271		
and 272 ...	Ditto	
Section 273 ...	Ditto ...	The first paragraph only, the rest being omitted
Sections 275,		
276, 277, 278, 279, 280		
281 and 282 ...	Ditto.	
Section 283.	Omitted.	
Sections 284 & 285	Extended.	
Section 286	Ditto ...	For the words "in manner hereinbefore mentioned" read the words "of which due notice shall be given".
Sections 287,		
288 & 289	Omitted	
Sections 290	Extended ...	For the latter portion of the section commencing from and inclusive of the words "at least — thirty days" to the end, read the words "at least ten days calculated from the date on which the attachment was made".
" 291	Ditto.	Omitting the first portion of the section from the commencement down to and inclusive of the words "consents to waive it." Also omitting the last four words.
Sections 292		
293, 294, 295, 296		
297, 298, 299, 300		
301, 302, 303, 328,		
329 and 330 ...	Ditto.	
Sections 331,		
332 and 333 ...	Omitted.	

Chapters and Sections.	Whether extended or omitted.	Modifications, if any.
Sections 336 and 337	Extended	
Sections 338	Ditto.	For the word "monthly" read the word ~~the word~~ "daily"
" 339	Ditto.	In the first paragraph for the words "the judge thinks" read the words "shall be". In the second paragraph for the word "monthly" read the word "daily". In the third paragraph, for the word "monthly" where it first occurs, read the word "daily", and omit the word "monthly" in the second place where it occurs.
Section 340	Ditto.	
" 341	Ditto.	Excepting clause (c), and in the proviso for the words "third and fifth" read the words "and third".
" 342	Ditto.	
" 343	Ditto.	Except the last paragraph.
Chapter XXI	Ditto.	Except section 371.
Chapter XXII		
Sections 373 and 374	Ditto	
Section 375	Ditto	Except from and inclusive of the words "and the Court shall pass a decree," to the end.
Chapter XXIII	The whole Chapter extended.	
Chapter XXIV		
Section 380	Extended	
Sections 381, 382	Ditto.	
Chapter XXV	Ditto	
Chapter XXVII.		
Sections 416, 417, 418, 419, 420 421, 422, 423, 424	Ditto.	
Section 425	Ditto.	Except the last nine words
" 426	Ditto	Except for the word "register" substitute the word "record".

Chapters and Sections.	Whether extended or omitted	Modifications if any.
Sections 427		
428 and 429	Extended.	
Chapter XXVIII	Ditto	
Chapter XXIX	The whol Chapter extended.	
Chapter XXX	Ditto.	
Chapter XXXI.		
Sections 440 and 441	Extended.	
Section 442	Ditto	For the words "taken off the file" read the word "rejected".
Sections 443 to 464 both inclusive	Ditto.	
Chapter XXXII	The whole Chapter extended.	
Chapter XXXIII	Ditto.	
Chapter XXXIV	Extended	
" XXXV	Ditto.	
" XXXVI	The whole chapter omitted.	
" XXXVII		
Section 506	Extended.	Omitting in the first paragraph the words "specially authorized in writing in this behalf;" and omitting the second paragraph.
Sections 507 to 515 (both inclusive)	Ditto	
Section 516	Ditto	Omitting from and inclusive of the words "together with any depositions" to the end.
Sections 517 to 526 (both inclusive)	Ditto	
Chapter XXXVIII	Ditto.	
Chapter XLVI	The whole Chapter extended.	
Chapter XLIX		
Sections 640, 641		
642 and 643	Extended.	
Section 644	Omitted.	
" 645	Extended.	
" 645a	Omitted.	
Sections 646 to 651 (both inclusive)	Extended.	

P. T. O.

** The above is intended to deal only with those portions of the Code of Civil Procedure specially intended to Presidency Small Cause Courts by Section 23 of the Presidency Small Cause Courts Act, 1882.

Court of Small Causes of Calcutta
The 12th June 1882.

Sdf- H. Millett
Sdf- Kunjo Lall Banerjee
Sdf- R.S.T. MacEwen
Sdf- G.C. Seonee ...

} Judges Court of Small Causes of Calcutta

Sne

Calcutta Gazette of 21st March 1883

Calcutta Small Cause Court.

With reference to a Notification dated the 12th June 1882, and published in the Calcutta Gazette of the 14th June 1882, extending, omitting, or applying, with modifica-tions, certain Chapters and Sections of the Code of Civil Procedure to the Court of Small Causes of Calcutta, under Section 23 of Act xv of 1882, the following additions and amendments are made with the sanction of the local Government :-

Chapters & Sections.	Whether extended or omitted-----.	Modifications, if any.
Chapter II.		
Section 25	Extended.	
Chapter IV.		
Section 43	Ditto	Omit the words "before the
Do...45	Ditto	--- Do---first hearing"
Do...46	Ditto	--- Do--------- Do------
Chapter XV.		
Section 193	Ditto	--- For the word "departed" read the words "ceased to attend."
Chapter XIX.		
Section 248	Ditto.	Omit the clause (a) & the first para: of the proviso.
Do...286	Ditto.	For the words "in manner hereinafter mentioned" read the words "of which due notice shall be given."
Chapter XXXI.		
Section 442	Ditto.	For the word "presented" read the word "filed"

The above is intended to deal only with those portions of the Code of Civil Procedure specially extended to Presidency Small Cause Courts by Section 23 of the Presidency Small Cause Courts Act, 1882.

H. Millett,
Kunjo Lall Banerjee,
R.S.T. MacEwen,
G.C. Sconce,
Judges, Court of Small Causes of Calcutta.

The 15th March 1883.

No: 1054-J-D., dated the Darjeeling, the 18th Oct:1882.

From-- F. B. Peacock, Esq., Offg: Secretary to the Government of Bengal, Judicial, Political and Appointment Departments

To ----The District Judge, Rungpore.

I am directed to acknowledge the receipt of your letter No: 146, dated 5th August 1882. / No: 205-A, dated 13th September 1882. noted on the margin, enquiring with reference to a case -- which recently occurred, whether parties who require the attend--ance of Government Servants as witnesses in Civil suits should be required to pay in the amount of the witnesses' salaries for the period of their absence from duty.

2. In reply I am to say that the Government servants are summoned to give evidence in a civil court in the station in which they are employed, the parties summoning them need not be charged with their salaries for the time they are absent from duty. If,-- however, they are summoned to attend a civil court at a distance, and their attendance invloves an absence of more than one day -- from their duties, the parties at whose instance they are summon--ed should be required to pay into court an amount equal to their salaries for the time of their absence.

Nos: 1055-60-J-D.

Copy forwarded to the Revenue, General/Financial, Medical and Municipal and Political and Appointment Departments of this office for information.

No: 1061-J-D.

Copy forwarded to the Public Works Department, Bengal, for information.

Circular No: 11-J-D.

Copy forwarded to the heads of all offices and depart--ments under this Government for information, and for communicatio to their subordinates, in continuation of Circular No: 31, dated the 20th June 1872.

By order of the Lieutenant-Governor of Bengal,

Sd/- W. Dunbar Blyth,

Under Secretary to the Govt: of Bengal.

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G.R.S. 28]

File No. 17
Serial No. 6

Diary No. of letter replied to ———

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
(Courts.)

, *the* 190

Date of issue 8-7-5-06

Signed by Mr. H. Ramaiya

READ.—

Letter No. 54 dated the 5th July 1905 from the Comptroller to Govt. requesting that orders may be passed ~~as regards~~ requiring private parties summoning Government officers as witnesses in Civil Courts to deposit in this Court ~~the~~ ~~charges~~ for the ~~each~~ days of attendance in the ~~Office~~ Court ~~summoned~~ & stating that the Chief Commissioner's Notification No. 86 dated the 29th May 1895 fixing a maximum of Rs 2/- for the purpose does not seem to him to be ~~exact~~ adequate.

over

SUBJECT

1. Letter No. 2075/51 dated the 30th September 1905, from the Registrar of the Chief Court of Mysore, stating with reference to the Office Docket No. J 227/C.17.2 of the 15th July 1905, that the Chief Court is not in favor of making any change in the existing practice; that it is the duty of every citizen to lend his assistance in the proper administration of justice and that when the Civil Pro Code requires private persons to come forward as witnesses, sometimes at considerable inconvenience & other sacrifice merely on the payment of batta, it seems unadvisable & inexpedient that Government should be so reluctant as to insist on being reimbursed for loss of service of their subordinates when they are compelled to attend a Court of law as witnesses:

Order thereon:— J 3224-5 of 17. 5. 06.

The Government [illegible]

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GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

concur in the view expressed by the Chief Court and do not consider it expedient to sanction a change in the existing practice in the manner suggested by the Comptroller

S. S. 11/5/06

Secy.

11/5/1906

To

The Comptroller & Supt.

The Registrar of the Ch. Court

Supreme.

Copies 15/5/06.

Examined, MM